

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Implementation of Section 621(a)(1) of the Cable)	MB Docket No. 05-311
Communications Policy Act of 1984 as Amended)	
by the Cable Television Consumer Protection and)	
Competition Act of 1992)	

COMMENTS OF THE VILLAGE OF NORTHBROOK, ILLINOIS

The Village of Northbrook appreciates the opportunity to file comments on the Second Further Notice of Proposed Rulemaking (“FNPRM”) in the above-referenced docket. The Village of Northbrook strongly opposes the Commission’s tentative conclusions in the FNPRM that cable-related, in-kind contributions are franchise fees.

The Village of Northbrook is a home rule municipality located about 25 miles north of Chicago in Chicago’s North Shore. With a population of roughly 33,000 residents, and a daytime population well above 50,000, the Village of Northbrook serves as a retail, commercial, and industrial hub, in addition to being a community where residents expect and receive first-class municipal, library, school, and park district services.

The Village of Northbrook currently has a cable television franchise agreement with Comcast of Illinois XI, LLC, which provides service to the vast majority of territory within the Village’s corporate limits. The Village is also served in only limited areas by AT&T, which has obtained a state authorization to provide cable or video service in the Village from the Illinois Commerce Commission pursuant to the Cable and Video Competition Law of 2007, 220 ILCS 5/21-100 *et seq.*

PEG CHANNELS: The Village of Northbrook has had a long history of active use of Public, Educational and Governmental (“PEG”) channels since the first local cable franchise was granted in the early 1980s. In addition to the various governmental units that serve all or part of the land within the Village’s boundaries, such as the elementary and high school districts, Northbrook Park District and Northbrook Library, the Village has had an active corps of volunteers who prepare and produce programming providing valuable information and events to the community.

The Village has three PEG channels on the cable system: NCTV 17, which is used by the Village, along with the Northbrook Park District and Northbrook Library. The other two channels are assigned to Northbrook Junior High School and Glenbrook North High School, respectively. When cable television was first introduced to the Village, one of the key features was the ability to reach Village residents with local programming, local announcements, and public safety messages and follow-up directives via the PEG channels.

While changes in forms of communication have provided the Village with other methods of reaching members of the community, the Village’s PEG channel remains an essential line of communication to its residents, particularly those residents who have not crossed the digital divide to computers and smartphones. Indeed, approximately 25% of the Village of Northbrook’s residents are senior citizens, who rely on cable television for their local news and information rather than computers, websites and smartphones. Thus, our PEG channel remains an important and sustainable line of communication to these residents. A reduction of Franchise Fees and/or PEG funding would significantly chip away at this essential communication tool.

As to the PEG channels, the Village disputes suggestions in the FNPRM that the providing of PEG channels is for the benefit of the Village; instead, these PEG channels benefit the public—

the residents and businesses in the Village—as well as the other public bodies that broadcast materials on the PEG channels. This is exactly the type of public service and community information that was contemplated by the Cable Act at its inception and has continued to be a successful communication method.

Public safety information, local warnings, and messaging via the PEG channels is very important to us. While our residents are within the viewing area of commercial Chicago channels, the network stations would never be able to offer the local advantages and information provided by these PEG channels. The Village cablecasts a variety of programming and information, including:

- all of its Village Board of Trustees meetings;
- all Plan Commission meetings. The Plan Commission is the body that hears all major land development proposals in the Village, the types of proposals that truly affect our residents where they live;
- locally created programming that is developed for and narrow-casted to our residents, some specifically for seniors and other “local interest” groups; and
- local safety messaging, such as an emergency local water supply “boil order” with detailed, Northbrook-specific information.

Over the past nearly four decades, the Village of Northbrook has maintained a strong relationship with the cable operator. The “cable-related, in-kind” obligations are not contributions to the Village; rather, they are a significant public service and community benefit. Any interpretation by the Commission that these should count as part of franchise fees will lead to arbitrary deductions in franchise fees, reducing the value of PEG channels in the community, the ability to monitor our programming and to ensure safety in our community.

The Village disputes the proposition that the PEG channels should be treated as “cable-related, in-kind contributions” under Paragraph 24 of the FNPRM, as these are not benefits to the Village, but a broader community and public service that should continue to be an obligation of these operators.

The Village also disputes the proposal in Paragraph 24 of the FNPRM that even if PEG channels were to be treated as “cable-related, in-kind contributions,” that they should be valued at “fair market value” when counted against the franchise fees the Village collects. Such an assumption would have the impact of largely eliminating any cash payments to the Village. In addition, it ignores the reality of the cable marketplace, where there is an abundance of channels that are fallow for portions of the day or are filled with much duplicative programming and reruns. Assigning an artificial “fair market value” would be unfair, as well as make it difficult to monitor and evaluate the methodology for assigning that value. This is yet another reason that PEG channels should not be treated as cable-related, in-kind contributions.”

FREE SERVICE: Comcast provides to the Village and other public bodies some free cable service; this service is necessary to the Village and other users of PEG channels to monitor the performance of the providers’ respective systems under the cable franchise agreement, as well as state law. In particular, the Village’s franchise agreement requires the cable operator to provide a cable television feed for staff to monitor the cable signal quality in the community, as well as to verify compliance with technical standards, both during our cablecast meetings and other programming. Free or discounted cable service to other public bodies is essential in order to allow them to remain current on important local information and news, including public safety issues.

Thus, the Village disputes the proposed finding in Paragraph 24 of the FNPRM that the that free or discounted cable services and use of cable facilities and equipment should be considered “cable-related, in-kind contributions.”

STUDIO EQUIPMENT: The Village agrees with the Commission’s comments in Footnote 97 of the FNPRM, that studio equipment costs should continue to be treated as “capital costs” for the purposes of the Cable Act, as most PEG facilities are already constructed. This is true in the Village of Northbrook; the major cost of continuing the extensive PEG programming such as described above is the repair and replacement of equipment as equipment wears out and technologies continue to improve.

CONCLUSION: Franchise obligations such as PEG channels and free cable service are community benefits, not contributions to local franchising authorities like the Village of Northbrook, and, like build-out obligations, should not be considered franchise fees. As explained above, the benefits to the Northbrook community from the PEG channels, free service, and studio equipment were intended and contemplated by the Cable Act and should continue to be provided by cable and video operators without any offset against franchise fees that are also contemplated by the Cable Act.

In addition, the proposed treatment of these benefits as “cable-related, in-kind contributions” will have the effect of altering, at the cable operators’ sole discretion and whim, the terms of existing cable franchise agreements such as between the Village of Northbrook and Comcast, and making PEG programming less effective in the future, as franchise fee resources to support PEG program development will be diverted from developing this excellent substantive information into costs over which the Village will have no effective control.

The proposals in the FNPRM are not in the best interest of the Village of Northbrook and its other government bodies, or our citizens and businesses in our community. PEG channels provide communication and information to the public. On behalf of the Village of Northbrook, we urge you to abandon the proposed rules in the FNPRM.

Respectfully submitted,

VILLAGE OF NORTHBROOK, ILLINOIS

BY: *Sandra E. Frum*

Sandra E. Frum
Village President
Village of Northbrook
1225 Cedar Lane
Northbrook, Illinois 60062

Dated: November 14, 2018